Reg. No. KL/TV/12

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIII] Trivandrum, Saturday, 11th February 1978 / 22nd Magha 1899 [No. 86

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No 1979-LA4/78. *Dated, Trivandrum, 11th Jebruary 1978.*

The Kerala Municipalities (Amendment) Bill, 1978 together with the Statement of Objects and Reason, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,

Secretary,
Legislative Assembly

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1978

33/478/L.

THE KERALA MUNICIPALITIES (AMENDMENT) BILL, 1978

A

BILL

further to amend the Kerala Municipalities Act, 1960.

Preamble.—WHEREAS it is expedient further to amend the Kerala Municipalities Act, 1960, for the purpose hereinafter appearing:

BE it enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Municipalities (Amendment) Act, 1978.

(2) It shall be deemed to have come into force on the 31st day of October, 1977.

2. *Insertion of new section 54 A.*—In the Kerala Municipalities Act, 1960 (14 of 1961) (hereinafter referred to as the principal Act), after section 54, the following section shall be inserted, namely:—

"54 A. *Government's power to postpone reconstitution of council and to appoint persons to perform functions of council.*—(1) Notwithstanding anything contained in section 8, where the term of office of the councillors of a Municipality is due to expire and the Government are satisfied that it is not expedient in the public interest to conduct fresh election of the councillors of that municipality for a temporary period, they may, by notification in the Gazette and for reasons to be stated in the notification, direct that the reconstitution of the council shall be postponed for such period, not exceeding one year from the date of expiry of the term of the councillors, as may be specified in such notification.

(2) All or any of the functions of the council and of its chairman and of the standing committee and other committees may, during the period specified in the notification under subsection (1), be exercised and performed, as far as may be, and to such extent as the Government may determine, by such person or persons, as the Government may appoint in that behalf and such person or any such person, as the case may be, may, if the Government so direct, receive payment for his services from the municipal fund.

(3) The Government may determine the relationship of any person or persons appointed under sub-section (2) with the Government, the Collector and the Director, and with themselves if two or more persons are appointed under the said subsection.

(4) The Government may, if they deem fit, direct the Commissioner to perform all or any of the powers and duties of the council, the chairman and the standing committee and other committees, in addition to his own.

(5) The Government shall reconstitute the council on the date on which the period specified in the notification under sub-section (1) expires.

(6) Where the date of reconstitution of a council is postponed under sub-section (1), the Government until the date of the reconstitution of the council and the reconstituted council thereafter shall be entitled to all the assets and be subject to all the liabilities of the council as on the date of expiry of the term of the councillors and on the date of the reconstitution, as the case may be.".

3. *Repeal and Saving.*—(1) The Kerala Municipalities (Amendment) Ordinance, 1977 (24 of 1977), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Secretary, Citizens Welfare Association, Changanacherry and others submitted a memorandum to the Government alleging mal-administration of the Changanacherry Municipality by the Chairman and the council and requesting for the supersession of the municipal council. An inquiry was conducted into the allegations made. and the enquiry report revealed many irregularities in the administration of the said municipality. Government therefore decided not to extend the term of office of the councillors of the Changanacherry Municipality, which was due to expire on the 1st November, 1977.

2. Since it was decided that the tern of office of the councillors of the Changanacherry Municipality should not be extended beyond the 1st November, 1977, arrangements had to be made for the performance of the functions of the council and the Chairman and the standing committee and other committee of that municipality from the 1st November, 1977, till new councillors enter upon office after elections to the council. The Kerala Municipalities Act, 1960, did not contain any provision enabling the making of interim arrangements in such cases and therefore suitable provisions to deal with such cases had to be incorporated in that Act. As the Legislative Assembly was not in session, and as the proposed amendment could not wait till the next session of the Legislative Assembly, the Kerala Municipalities (Amendment) Ordinance, 1977 was promulgated by the Governor for the purpose on the 30th October, 1977 and published as Ordinance No. 24 of 1977.

3. According to sub-section (1) of the new section 54A inserted in the Kerala Municipalities Act, 1960, by the said Ordinance, the Government are empowered to postpone the reconstitution of a municipal council in the

circumstances specified in the section for a period not exceeding six months from the date of expiry of the term of the councillors. In exercise of the powers conferred by the new section 54A, the reconstitution of the Changanacherry Municipal council has been postponed for an aggregate period of six months from the 1st November, 1977 to the 1st May, 1978, which is the maximum period allowed by the said section. As the elections to the municipal councils in the state proposed to be held in January, 1978, have been postponed and the Government have decided that the term of the local bodies in the State should be extended upto the 1st June, 1978, it is necessary to further postpone the reconstitution of the Changanacherry municipal council upto the 1st June, 1978. Since the maximum period allowed by the new section 54A is only six months, which expires in the case of the Chanagancherry municipal council on the 1st May, 1978, further postponement of the reconstitution of that Municipal Council beyond 1st May, 1978, can be done only if the said section is suitably amended. Opportunity has therefore been availed of to amend the said section 54A to empower Government to postpone the reconstitution of a municipal council upto a maximum period of one year.

4. The Bill seeks to replace Ordinance No. 24 of 1977 by an Act of the State Legislature with the above modification.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into force, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Subsection (1) of section 54A proposed to be inserted in the Kerala Municipalities Act, 1960, by clause 2 of the Bill empowers the Government to direct, by notification in the Gazette and for reasons to be stated in the notification, that the reconstitution of a municipal council shall be postponed for such period, not exceeding one year from the date of expiry of the term of the councillors, as may be specified in such notification.

2. Subsection (2) of section 54A empowers the Government to appoint any person or persons to exercise and perform the functions of the council, the reconstitution of which has been postponed, and of its chairman and of the standing committee and other committees, as far as may be, and to such extent as the Government may determine and to direct that such person or persons, as the case may be, may receive payment for his services from the municipal fund.

3. Sub-section (3) of section 54A empowers the Government to determine the relationship of persons appointed under subsection (2) with the Government, the Collector and the Director of Municipalities and with themselves and sub-section (4) of that section empowers the Government to direct the Commissioner of the municipality to perform all or any of the powers and duties of the council, the chairman and the standing committee and other committees, in addition to his own.

4. The matters mentioned above are of an administrative nature and therefore the delegation of legislative power is of a normal character.

K. AVUKADERKUTTY NAHA.

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 1978-LA4A/78. *Dated, Trivandrum, 11th February 1978.*

The Kerala Contingency Fund (Amendment) Bill, 1978 together with the Statement of Objects and Reasons, and the Financial Memorandum is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1978.

33/480/J.

Fifth Kerala Legislative Assembly
Bill No. 49

THE KERALA CONTINGENCY FUND (AMENDMENT) BILL, 1978

A

BILL

further to amend the Kerala Contingency Fund Act, 1957.

Preamble.—WHEREAS it is expedient further to amend the Kerala Contingency Fund Act, 1957, for the purpose hereinafter appearing;

BE it enacted in the Twenty-ninth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Contingency Fund (Amendment) Act, 1978.

(2) It shall be deemed to have come into force on the 9th day of January, 1978.

2. *Amendment of section* 2.—In sub-section (1) of section 2 of the Kerala Contingency Fund Act, 1957 (6 of 1957) (hereinafter referred to as the principal Act), for the words "three hundred lakhs of rupees", the words "five hundred lakhs of rupees" shall be substituted.

3. *Repeal and saving.*—(1) The Kerala Contingency Fund (Amendment) Ordinance, 1978 (2 of 1978), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the Principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Under articles 267 (2) and 283 (2) of the Constitution, the Kerala Contingency Fund Act, 1957, was enacted providing for the establishment of the Contingency Fund of the state of Kerala and for the payment of moneys into and withdrawal of moneys from it. Under section 2 of that Act, the corpus of the Fund is three hundred lakhs of rupees. It has been found that this amount is inadequate to take care of unforeseen items of expenditure, particularly during the times of natural calamities, when large expenditure has to be incurred at short notice. Further there has been enormous increase in the scope and range of developmental activities. Several new schemes have to be initiated between sessions of the Legislative Assembly. Advances from the Contingency Fund have to be resorted to in order to satisfy the requirement of "new service" procedure. It was therefore considered necessary to enhance the corpus of the Contingency Fund to five hundred lakhs of rupees.

2/479/J.

2. As the Legislative Assembly was not in session and as the above proposal had to be given effect to immediately, the Kerala Contingency Fund (Amendment) ordinance, 1978 was promulgated by the Governor on the 5th day of January, 1978, and published as Ordinance No. 2 of 1978.

3. The Bill seeks to replace the Ordinance by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would involve withdrawal of a sum of two hundred lakhs of rupees from the Consolidated Fund of the State.

M. K. HEMACHANDRAN.